



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

October 2, 2008

CHAN

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Gary Walker**
Tax Registry No. 900708
Manhattan Court Section
Disciplinary Case Nos. 81370/05, 81696/06, 81847/06,
81913/06, 82324/06, 82452/06,
82474/07 & 82507/07

The above named member of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on April 7, 2008, and was charged with the following:

DISCIPLINARY CASE NO. 81370/05

1. Said Police Officer Gary Walker, assigned to the 34th Precinct, while on duty, on or about and between July 1, 2004 and September 10, 2004, did wrongfully cause false entries to be made in Department records, to wit: said Officer signed in the Employee Relations sign-in log, using the name of a supervisor, identity known to the Department, as having authorized the assignment, when in fact, no such authorization was given.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY
GENERAL REGULATIONS**

2. Said Police Officer Gary Walker, assigned as indicated in Specification #1, while on duty, on the dates indicated in Specification #1, did wrongfully make false entries in said Officer's Activity Log (PD 112-145), to wit: said Officer listed Employee Relations as his assignment, when in fact, he was not assigned to that command.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY
GENERAL REGULATIONS**

3. Said Police Officer Gary Walker, assigned as indicated in Specification #1, while on duty, on the dates indicated in Specification #1, was absent without leave from the 34th Precinct for a total of fifty-two (52) days.

P.G. 203-05, Page 1, Paragraph 1 & 2

P.G. 205-18, Page 1 and 2

**PERFORMANCE ON DUTY
ABSENT WITHOUT LEAVE -
PERSONNEL MATTERS**

DISCIPLINARY CASE NO. 81696/06

POLICE OFFICER GARY WALKER

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while off-duty, on or about March 7, 2006, did wrongfully consume an intoxicant to the extent that said Officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 1

FITNESS FOR DUTY

DISCIPLINARY CASE NO. 81847/06

1. Said Police Officer Gary Walker, while assigned to the 34 Precinct, on or about December 9, 2004 and January 21, 2005, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Officer failed to notify the Department of an active Order of Protection that was served against him.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS**

DISCIPLINARY CASE NO. 81913/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, on or about May 28, 2006 through June 1, 2006 was wrongfully and without just cause absent from his residence without the permission of his District Surgeon and/or the Medical Division Sick Desk Supervisor.

P.G. 205-01, Page 2, Paragraph 4

REPORTING SICK

DISCIPLINARY CASE NO. 82324/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while on-duty, on or about October 17, 2006, having been directed by New York City Police Deputy Inspector Kevin Holloran, to comply with the directives of the Counseling Unit to participate in an in patient alcohol counseling program, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

DISCIPLINARY CASE NO. 82452/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while on-duty, on or about November 17, 2006, having been directed by New York City Police Deputy Inspector Kevin Holloran, to comply with the directives of the Counseling Unit to participate in an in patient alcohol counseling program, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

DISCIPLINARY CASE NO. 82474/07

POLICE OFFICER GARY WALKER

1. Police Officer Gary Walker, while assigned to the Manhattan Court Section, on or about May 1, 2006, while off duty at 320 West Montauk Highway, Suffolk County, New York, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer did fail to comply with a behavior contract he signed with the [REDACTED] and was thereafter expelled from said counseling program.

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

DISCIPLINARY CASE NO. 82507/07

1. Said Police Officer Gary Walker, assigned to the Manhattan Court Section, on or about December 18, 2006, while present at the Medical Division, did refuse to comply with a lawful order, to wit: after being directed by Deputy Inspector Kevin Holloran to comply with the directives of the Counseling Unit he refused said lawful order.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

In a Memorandum dated July 24, 2008, Assistant Deputy Commissioner Vinal accepted the Respondent's pleading of GUILTY to all Specifications, in each above noted disciplinary matter. Having read the Memorandum and analyzed the facts and circumstances of these instant matters, I approve the findings, but disapprove the recommended penalty.

The varied nature and totality of the misconduct here is egregious. Such behavior and conduct compromises Respondent Walker's ability to remain a viable member of this Department. Thus, Respondent Walker's immediate separation from the Department is required.

Although Assistant Deputy Commissioner Vinal recommends that Respondent Walker be summarily dismissed, I will permit an alternative manner of separation from the Department at this time. It is therefore directed that a post-trial Vested-Interest retirement agreement be implemented with the Respondent. In consideration of such, Respondent Walker is to remain, and to separate from the Department, on a continued suspended duty status. The Respondent is to also forfeit all suspension days since served, including all accrued leave and time balances, and will immediately be placed on a One-Year Dismissal Probation period.

Such Vested-Interest retirement shall also include Respondent Walker's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department, or to seek reinstatement or return to the Department. If Respondent Walker does not agree to the terms of this Vested-Interest retirement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY.**


Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

July 24, 2008

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In the Matter of the Charges and Specifications : Case Nos. 81370/05
81696/06
- against - : 81847/06
81913/06
Police Officer Gary Walker : 82324/06
82452/06
Tax Registry No. 900708 : 82474/07
82507/07
Manhattan Court Section :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Robert W. Vinal
Assistant Deputy Commissioner - Trials

APPEARANCES:

For the Department: Michelle Alleyne, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street – Suite 640
New York, NY 10038

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

The above-named member of the Department appeared before me on April 7, 2008, charged with the following:

Disciplinary Case No. 81370/05

1. Said Police Officer Gary Walker, assigned to the 34th Precinct, while on duty, on or about and between July 1, 2004 and September 10, 2004, did wrongfully cause false entries to be made in Department records, to wit: said Officer signed in the Employee Relations sign-in log, using the name of a supervisor, identity known to the Department, as having authorized the assignment, when in fact, no such authorization was given.

PG 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY
GENERAL REGULATIONS

2. Said Police Officer Gary Walker, assigned as indicated in Specification # 1, while on duty, on the dates indicated in Specification # 1, did wrongfully make false entries in said Officer's Activity Log (PD 112-145), to wit: said Officer listed Employee Relations as his assignment, when in fact, he was not assigned to that command.

PG 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY
GENERAL REGULATIONS

3. Said Police Officer Gary Walker, assigned as indicated in Specification # 1, while on duty, on the dates indicated in Specification # 1, was absent without leave from the 34th Precinct for a total of fifty-two (52) days.

PG 203-05, Page 1, Paragraph 1 & 2 – PERFORMANCE ON DUTY
PG 205-18, Pages 1 and 2 - ABSENT WITHOUT LEAVE – PERSONNEL
MATTERS

Disciplinary Case No. 81696/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while off-duty, on or about March 7, 2006, did wrongfully consume an intoxicant to the extent that said Officer was unfit for duty.

PG 203-04, Page 1, Paragraph 1 – FITNESS FOR DUTY

Disciplinary Case No. 81847/06

1. Said Police Officer Gary Walker, while assigned to the 34 Precinct, on or about December 9, 2004 and January 21, 2005, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said

Officer failed to notify the Department of an active Order of Protection that was served against him.

PG 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT- PROHIBITED
CONDUCT GENERAL REGULATIONS

Disciplinary Case No. 81913/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, on or about May 28, 2006 through June 1, 2006 was wrongfully and without just cause absent from his residence without the permission of his District Surgeon and/or the Medical Division Sick Desk Supervisor.

PG 205- 01, Page 2, Paragraph 4 – REPORTING SICK

Disciplinary Case No. 82324/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while on-duty, on or about October 17, 2006, having been directed by New York City Police Deputy Inspector Kevin Holloran, to comply with the directives of the Counseling Unit to participate in an in patient alcohol counseling program, did fail and neglect to comply with said order.

PG 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

Disciplinary Case No. 82452/06

1. Said Police Officer Gary Walker, assigned to Manhattan Court Section, while on-duty, on or about November 17, 2006, having been directed by New York City Police Deputy Inspector Kevin Holloran, to comply with the directives of the Counseling Unit to participate in an in patient alcohol counseling program, did fail and neglect to comply with said order.

PG 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

Disciplinary Case No. 82474/07

1. Police Officer Gary Walker, while assigned to the Manhattan Court Section, on or about May 1, 2006, while off duty at 320 West Montauk Highway, Suffolk County, New York, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer did fail to comply with a behavior contract he signed with the [REDACTED] and was thereafter expelled from said counseling program.

PG 203-10 Page 1, Paragraph 5 – PROHIBITED CONDUCT

Disciplinary Case No. 82507/07

1. Said Police Officer Gary Walker, assigned to the Manhattan Court Section, on or about December 18, 2006, while present at the Medical Division, did refuse to comply with a lawful order, to wit: after being directed by Deputy Inspector Kevin Holloran to comply with the directives of the Counseling Unit he refused said lawful order.

PG 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and the Respondent was represented by Craig Hayes, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded guilty as charged, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent, who is presently assigned to the Criminal Justice Bureau, testified that prior to his appointment to the Department in January, 1992, he served six years in the United States Marine Corps. His unit was deployed to Lebanon and he also participated in Operation Desert Shield.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The Respondent was required to appear before a Family Court judge when [REDACTED]

[REDACTED]

[REDACTED] Also, members of the service who were friends of the Respondent perished during the attack on the World Trade Center. The Respondent reached out to the Department's Peer Assistance Program (POPPA) after Wright's death. He was designated restricted duty status and assigned to Employee Relations from May, 2003 through June, 2004.

With regard to Disciplinary Case No. 81370/05, the Respondent testified that on July 1, 2004, he was told that he had been restored to full duty status, that he was no longer assigned to Employee Relations and that he had to report for duty at the 34 Precinct. Because he felt that he was not yet "emotionally ready" to resume performing full duties, he "tried to remain at POPPA" by continuing to report for duty to Employee Relations after July 1, 2004. He acknowledged that he would sign himself into the Employee Relations log using the name of a supervisor as having authorized his assignment to Employee Relations when he knew that he had not received any such authorization. He also made false entries in his Activity Log listing Employee Relations as his assignment, when he knew he had been assigned to the 34 Precinct. As a result of his failure to report for duty at the 34 Precinct, he was absent without leave from his assignment at the 34 Precinct for 52 days. On September 13, 2004, Lieutenant Barbuti confronted him regarding his duty status. He admitted to Lieutenant Barbuti that he was aware that he had been reassigned to perform full duty at the 34 Precinct.

With regard to Disciplinary Case No. 81847/06, the Respondent testified that during the fall of 2004, he was involved in a custody battle with Wright's mother, Jacqueline Leslie, who was attempting to obtain legal custody of his children. On

December 9, 2004, Leslie's attorney served him with an Order of Protection signed by a Family Court judge. A second Order of Protection was served on him on January 21, 2005. He testified that he did not notify the Department about these Family Court Orders of Protection because he assumed that the Department was on notice regarding their existence since on both December 9, 2004 and January 21, 2005, he had signed out at his command that he was leaving to attend a Family Court proceeding.

With regard to Disciplinary Case No. 81696/06, the Respondent testified that in the spring of 2006, he felt he was ready to resume performing full patrol duties and he was looking forward to being transferred from his assignment at the Manhattan Court Section back to the 34 Precinct. On March 7, 2006, he was told that he was being assigned to modified duty status. He became very upset because he "had never been modified before." He was inside his residence that day because it was his regular day off. He began drinking vodka. Lieutenant Steven Olsen, Integrity Control Officer, Manhattan Court Section, came to his residence and then transported him to his command where Deputy Inspector John O'Connell interviewed him and then told him that he was reporting him as unfit for duty.

As a result of the fact that he had been reported unfit for duty due to consumption of alcohol, the Respondent was interviewed by the Counseling Unit which recommended a program of in-patient treatment. The Respondent was then ordered to attend an in-patient treatment program. He complied with this order and reported for in-patient treatment at the [REDACTED] where, upon entry, he was required to sign a behavior contract. The Respondent testified that while he was playing [REDACTED]. He

asked to leave [REDACTED] but he remained there. Other patients who were being treated at [REDACTED] learned that he was a police officer and some who had criminal records began speaking to him in a discourteous manner and initiating arguments. This created tension and he became uncomfortable at [REDACTED]. On May 1, 2006, after he had been at [REDACTED] for 25 days, [REDACTED] director informed him that he was being expelled from the facility for having violated his behavior contract. [REDACTED] director told him that two female patients had complained that he had "touched" them. As a result of his expulsion from [REDACTED] he was suspended and served with Charges and Specifications (under Disciplinary Case No. 82474/07).

Upon his return from [REDACTED] he was placed on sick report and confined to his residence, although he was authorized to request a four hour out-of-residence pass as needed. He recalled that he felt that he "needed to get away." On May 28, 2006, he left his residence without having sought or obtained the permission of his District Surgeon or the Medical Division Sick Desk Supervisor. He boarded a flight to the Dominican Republic and stayed there for four days. When he returned to New York on June 1, 2006, he was met at JFK Airport by Lieutenant Dominick Valenti who is assigned to the Medical Division's Absence Control Unit. The Respondent testified that he was familiar with the Department's sick report rules and procedures. This four-day unauthorized absence from his residence resulted in the Respondent being suspended and served with Charges and Specifications.

On October 17, 2006, the Respondent was ordered by Deputy Inspector Kevin Holloran to comply with the directive of the Counseling Unit that he attend inpatient alcohol counseling. The Respondent testified that he refused to comply with this order

because he “felt that things would never change going back there” and because he believed that if he went back “there would be problems” because “some” of the patients there “were criminals.” As a result of this refusal, he was suspended and he was served with Charges and Specifications.

On November 16, 2006, the Respondent returned from suspension and was directed to report to the Medical Division the next day. On November 17, 2006, the Respondent was again ordered by Deputy Inspector Holloran to comply with the directive of the Counseling Unit that he attend an in-patient alcohol counseling program. The Respondent testified that he refused to comply with this order for the same reason that he had refused to comply with Deputy Inspector Holloran’s October 17, 2006 order. As a result of this refusal, he was suspended again and he was again served with Charges and Specifications.

On December 17, 2006, the Respondent returned from his 30-day suspension. He was directed to report to the Medical Division the next day. On December 18, 2006, the Respondent was again ordered by Deputy Inspector Holloran to comply with the directive of the Counseling Unit that he attend an in-patient alcohol counseling program. The Respondent refused to comply with this order, he was suspended again and he was again served with Charges and Specifications. The Respondent testified that Deputy Inspector Holloran’s orders were the only orders he had ever refused to obey during the 16 years he has served as a police officer and that refusing to comply with Deputy Inspector Holloran’s orders was “a hard thing” for him to do “because I never in my life refused an order.”

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on January 13, 1992. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has admitted that even though he knew he had been assigned to the 34 Precinct, he pretended that he was still assigned to the POPPA program in order to avoid performing full duty assignments. To support this fiction he intentionally wrote false entries in the Employee Relations sign-in log representing that a supervisor had authorized his presence there and he knowingly made false entries in his Activity Log listing Employee Relations as his assignment. Moreover, the Respondent's absence without leave from full duty ended after 52 days only because a lieutenant confronted him regarding his duty status. The Respondent's testimony that he engaged in this 52 day charade because he did not feel that he was emotionally ready to perform full duty assignments, does not excuse or even mitigate his misconduct since he did not even report to the 34 Precinct or attempt to perform even one tour assigned to full duties.

The Respondent has also admitted that after he was expelled from [REDACTED] and while he was on sick report, he absented himself from his residence without seeking Departmental permission and that he then left the country and remained outside the U.S. for four days merely because he felt that he "needed to get away."

In Disciplinary Case No. 80679/05 (approved on November 18, 2005), a 15-year member with no prior disciplinary record was dismissed from the Department after he

was found guilty of intentionally manipulating the POPPA program by making false statements to the Medical Division's liaison for POPPA and traveling out-of-state without permission while he was on sick report.

The Respondent has also admitted that he refused to comply with three separate orders issued by Deputy Inspector Holloran directing him to report to an in-patient counseling program. The Respondent's testimony that the reason he refused to comply with these orders was because he assumed that if he went back to [REDACTED] "there would be problems" because "some" of the patients there had criminal records, does not serve to mitigate his misconduct since he did not even report to [REDACTED] and attempt to complete the in-patient counseling program from which he had previously been expelled.

In Disciplinary Case No. 82402/06 et al. (approved on May 28, 2008), a 16-year officer who had no prior formal disciplinary record forfeited 123 suspension days and was placed on dismissal probation after she was found guilty of having failed to comply with orders that she attend in-patient counseling. Similarly, in Disciplinary Case No. 83160/07 et al. (approved on September 12, 2007), a seven-year officer who had one prior disciplinary adjudication was required to forfeit 60 suspension days and was placed on dismissal probation after he was found guilty of having failed to comply with two orders, one to attend in-patient counseling and one to attend out-patient counseling.

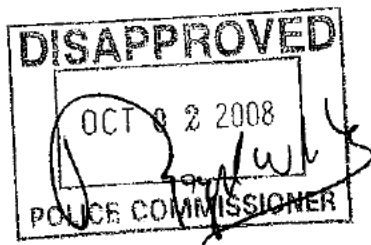
However, the circumstances in those cases differ from the Respondent's misconduct here in that in each of those cases the officer was suffering from severe and persistent pain caused by one or more serious medical conditions and the officer was directed to attend in-patient counseling based on a finding that the officer was abusing pain medications, not alcohol. Here, it is not disputed that the Respondent was directed

to attend in-patient counseling based on a finding that he was unfit for duty as a result of alcohol consumption.

Moreover, although the officer in Disciplinary Case No. 82402/06, et al. was also found guilty, as the Respondent has been here, of being out of residence without permission while on sick report, making inaccurate entries in a Department log and being AWOL, the officer in that case was out of residence for only two brief periods, she made only one inaccurate entry (a time entry), and she was AWOL on only one occasion for only two hours.

Here, the Respondent was AWOL from his full duty assignment at the 34 Precinct for 52 days and he made numerous false entries in a Department log to support his deception that he was still assigned to Employee Relations. He also failed to notify the Department that he was the subject of Orders of Protection which had been issued against him by a Family Court Judge. Finally, while he was on sick report he left the country for four days when he had not even sought Departmental permission to leave his residence for four hours.¹

Therefore, I recommend that the Respondent be DISMISSED from the New York City Police Department.



Respectfully submitted,

Robert W. Vinal
Assistant Deputy Commissioner - Trials

¹ See Krute v. Kelly, 2008 N.Y. App. Div. LEXIS 1865 (1st Dept.) where the Appellate Division upheld the Police Commissioner's dismissal of a member who, in addition to other misconduct, left his county of residence while on sick report.



POLICE DEPARTMENT

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In the Matter of the Disciplinary Proceedings :

- against - :

Police Officer Gary Walker :

Tax Registry No. 900708 :

Manhattan Court Section :

FINAL

ORDER

OF

DISMISSAL
-----X

Police Officer Gary Walker, Tax Registry No. 900708, Shield No. 23654, Social Security No. [REDACTED], having been served with written notice, has pleaded guilty to written Charges and Specifications numbered 81370/05, 81696/06, 81847/06, 81913/06, 82324/06, 82452/06, 82474/07 and 82507/07 as set forth on form P.D. 468-121, dated October 7, 2005, March 8, 2006, May 25, 2006, June 6, 2006, October 18, 2006, November 20, 2006, December 15, 2006, December 20, 2006, respectively, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Gary Walker from the Police Service of the City of New York.

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE: